

Serial No. 10/820,157

Atty. Docket No. 249/459

Amendment dated October 2, 2007Reply to Advisory Action mailed September 20, 2007REMARKS

Prior to entry of this amendment, claims 1-18, 21 and 22 are pending in the subject application. Claims 6, 7, 8, 14, 15, 17 and 18 are withdrawn from consideration.

By this amendment, claims 1, 9 and 21 are cancelled without prejudice to or disclaimer of the subject matter contained therein, and claims 2, 3, 5, 7, 8, 10, 14-18 and 22 are solely amended to depend from one of allowed claims 11 and 12 instead of cancelled claim 1 and/or to correct minor informalities contained therein. Accordingly, applicants respectfully submit that the amendments do not raise new issues requiring further search and/or consideration, and thus, applicants respectfully request entry of the amendments.

Claims 11 and 12 are independent, which have both been allowed. All of remaining claims 2-8, 10, 14-18, and 22 depend from one of allowed independent claims 11 and 12.

A. Advisory Action dated September 20, 2007

In the Advisory Action dated September 20, 2007, the Examiner indicated that the amendment filed August 8, 2007, would not be entered, as it raised new issues including many non-elected claims depending from non-generic claims.

In the Advisory Action, the Examiner asserted "claims 11 and 12 cannot be read on species of the device that have a heater." Applicants respectfully disagree. It is respectfully submitted that the Species subject to the restriction requirement, while reciting different embodiments, were not contradictory. In other words, these Species were clearly usable together, and claims 11 and 12 are generic to each of the claims depending therefrom.

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To be eligible for rejoinder, a claim to a non-elected invention must depend from or otherwise require all the limitations for an allowable claim. Since the only independent claims remaining are allowed, viz., elected claims 11 and 12, all of the pending claims clearly depend from an allowable claim. Thus, it is respectfully submitted that rejoinder and consideration are proper.

Therefore, reconsideration and entry of the present amendment is respectfully requested.

B. Introduction

In the outstanding Office Action Made Final, the Examiner rejected claims 1, 2, 3, 9, 10, 16 and 21 under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of JP 5-315293 ("the JP '293 reference"), U.S. Patent No. 6,626,236 to Bandoh et al. ("the Bandoh et al. reference"), U.S. Patent No. 3,543,839 to Shlosinger ("the Shlosinger reference") and optionally JP 8-29080 ("the JP '080 reference"); rejected claims 4, 5 and 22 under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of the JP '293 reference, the Bandoh et al. reference, the Shlosinger reference and optionally the JP '080 reference and further in view of JP 2-126049 ("the JP '049 reference"); rejected claims 1, 2, 3, 4, 5, 9, 10, 16, 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of the JP '293 reference, the Bandoh et al. reference, JP 5-99580 ("the JP '580 reference") and optionally the JP '080 reference; and allowed claims 11-13.

C. Allowable Subject Matter

Applicants appreciate the allowance of claims 11-13. As discussed above, all of remaining claims 2-8, 10, 14-18, and 22 now directly or indirectly depend from one of

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allowed independent claims 11 and 12, and are allowable over the applied art for at least the respective reasons for which each of independent claims 11 and 12 are allowable.

D. Asserted Obviousness Rejection of Claims 1, 2, 3, 9, 10, 16 and 21

In the outstanding Office Action Made Final, the Examiner rejected claims 1, 2, 3, 9, 10, 16 and 21 under 35 U.S.C. § 103(a) as being unpatentable over the JP '293 reference, the Bando et al. reference, the Shlosinger reference and optionally the JP '080 reference.

The rejection of claims 1, 9 and 21 is rendered moot by the cancellation of those claims, and the rejection of remaining claims 2, 3, 10 and 16 under 35 U.S.C. § 103(a) over the JP '293 reference, the Bando et al. reference, the Shlosinger reference and optionally the JP '080 reference is rendered moot at least because each of claims 2, 3, 10 and 16 now directly or indirectly depends from allowed claim 12. It is respectfully requested that the rejection be withdrawn.

E. Asserted Obviousness Rejection of Claims 4, 5, and 22

In the outstanding Office Action Made Final, the Examiner rejected claims 4, 5 and 22 under 35 U.S.C. § 103(a) as being unpatentable over the JP '293 reference, the Bando et al. reference, the Shlosinger reference and optionally the JP '080 reference in further view of the JP '049 reference.

As discussed above, each of claims 4, 5 and 22 now directly or indirectly depends from allowed claim 12, and thus, is allowable over the applied art for at least the reasons which claim 12 is allowable. Thus, the rejection of claims 4, 5 and 22 under 35 U.S.C. § 103(a) over the combination of the JP '293 reference, the Bando et al. reference, the

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Shlosinger reference, the JP '080 reference and the JP '049 reference is rendered moot. It is respectfully requested that the rejection be withdrawn.

F. Asserted Obviousness Rejection of Claims 1, 2, 3, 4, 5, 9, 10, 16, 21 and 22

In the outstanding Office Action Made Final, the Examiner rejected claims 1, 2, 3, 4, 5, 9, 10, 16, 21 and 22 under 35 U.S.C. §103(a) as being unpatentable over the combined teachings of the JP '293 reference, the Bandoh et al. reference, the JP '580 reference and optionally the JP '080 reference. The rejection is respectfully traversed for at least the following reasons.

The rejection of claims 1, 9 and 21 is rendered moot by the cancellation of those claims, and the rejection of remaining claims 2, 3, 4, 5, 10, 16 and 22 under 35 U.S.C. § 103(a) over the JP '293 reference, the Bandoh et al. reference, the JP '580 reference and optionally the JP '080 reference is rendered moot at least because each of claims 2, 3, 4, 5, 10, 16 and 22 now directly or indirectly depends from allowed claim 12. It is respectfully requested that the rejection be withdrawn.

G. Rejoinder of Non-Elected Withdrawn Claims 6-8, 14, 15, 17 and 18

As each of claims 6-8, 14, 15, 17 and 18 now directly or indirectly depends from one of allowed independent claims 11 and 12, applicants request rejoinder and allowance of non-elected withdrawn claims 6-8, 14, 15, 17 and 18.

H. Entry of Amendment Requested

As noted above, it is respectfully submitted that the amendment be entered, and that consideration thereof does not impose an undue burden on the Examiner.

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I. Conclusion


If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

LEE & MORSE, P.C.

Date: October 2, 2007


Eugene M. Lee, Reg. No. 32,039

Attachments:

Petition for Second Month Extension of Time
Notice of Appeal

LEE & MORSE, P.C.

3141 FAIRVIEW PARK DRIVE, SUITE 500

FALLS CHURCH, VA 22042

703.207.0008 TEL

703.207.0003 FAX

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PETITION and
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

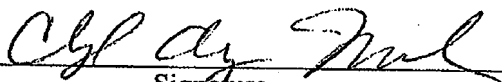
This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being facsimile transmitted to the
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Cheryl A. Milner
Name of Person Signing Certificate

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